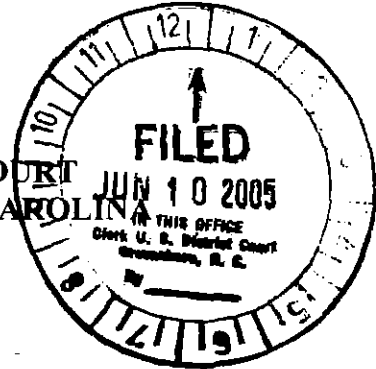


**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



Eugene D. Josey,

Petitioner,

v.

Jennifer H. Langley,

Respondent.

1:05CV00531

**ORDER OF DISMISSAL WITHOUT PREJUDICE
TO PETITIONER FILING A NEW PETITION**

Petitioner, a prisoner of the State of North Carolina, has submitted a petition for writ of habeas corpus by a person in state custody, together with the \$5.00 filing fee. Petitioner has used the incorrect form, but the court will consider the submission as a petition under 28 U.S.C. § 2254. The Clerk of Court received the submission on May 23, 2005, which petitioner had dated as of May 9, 2005. For the following reasons, the petition cannot be further processed.

1. It appears that petitioner was convicted and sentenced in the Superior Court of Iredell County, within the territorial jurisdiction of the United States District Court for the Western District of North Carolina. Petitioner should seek the proper forms from the clerk of that district and file the complaint there.

The address for the Clerk is: Room 204, Charles R. Jonas Federal Building, 401 West Trade Street, Charlotte, NC 28202.

2. An insufficient number of copies was furnished. Petitioner must submit the original and two copies. [Attached instructions and Rule 3(a), Rules Governing § 2254 Cases.]

Because of these pleading failures, this particular petition will be filed and then dismissed, without prejudice to petitioner filing a new petition in the proper district.

In forma pauperis status will be granted for the sole purpose of entering this order of dismissal with permission to file a new petition in the proper district.

IT IS THEREFORE ORDERED that in forma pauperis status is granted for the sole purpose of entering this order.

IT IS FURTHER ORDERED that this action be filed, but then dismissed sua sponte without prejudice to petitioner filing a new petition in the proper district.

A handwritten signature in black ink, appearing to read "Wallace W. Dixon", written in a cursive style.

Wallace W. Dixon, U.S. Magistrate Judge

June 10, 2005